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USTR PASS TO KENT SHIGATOMI
COMMERCE PASS TO MATT GAISFORD

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TAGS: [USTR](#) [ETRD](#) [ECON](#) [PM](#)
SUBJECT: RE: POST INPUT TO REPORT THE OPERATION OF THE CARIBBEAN
BASIN ECONOMIC RECOVERY ACT

REF: STATE 75599

[1](#)1. Below is post's response to reftel.

Economic Review

[1](#)2. (U) Panama is experiencing a period of extended economic growth, with 8.5 percent GDP growth in 2006, 11.5 percent in 2007, and 9.2 percent in 2008. However, due to the global economic crisis, its GDP growth rate was 2.4 percent in the first half of 2009. The main drivers of growth have been capital investment, port activity, tourism, construction, and goods and services exports. Panama's GDP is \$39,990 million (purchasing power parity) or \$24,754 million (current prices).

[1](#)3. (U) The estimated population of Panama is 3.45 million people. Unemployment in Panama as of September 2009 had fallen to 6.6 percent. The poverty rate is 28.5 percent. Employers consistently report a lack of skilled labor, in particular a lack of English-speaking workers.

[1](#)4. (U) As of June 2009, the public debt was 43.7 percent of GDP versus 45.2 percent as of December 2008. During the first half of 2009, Panama posted a non-financial public sector deficit of 0.8 percent of GDP. The annual deficit for 2009 is projected to be 1.9 percent of GDP.

[1](#)5. (U) The U.S. exported \$4,887.3 million to Panama in 2008, and imported \$379.1 million, resulting in a trade surplus of \$4,508.2 million. US exports were dominated by oil and capital- and technology-intensive manufactured goods, such as aircraft, pharmaceuticals, machinery, medical equipment, and motor vehicles. Most US imports from Panama are seafood, including fresh fish and shrimp, and repaired goods.

[1](#)6. (U) Foreign direct investment (FDI) during 2007 reached \$1,907.2 million, down from \$2,401.7 million in 2008; it received \$386.9 million in the first half of 2009. In 2008, approximately 60 percent of FDI was due to the government selling two radio spectrum bands. US FDI in Panama is concentrated largely in the non-bank holding companies, energy, finance, insurance and wholesale trade sectors.

Commitment to undertake WTO obligations and participate in negotiations toward the FTAA or another FTA

¶17. (U) Panama has been supportive of multilateral trade liberalization through negotiations in both the WTO and the FTAA. Panama played a constructive role in advancing the FTAA process at the November 2005 Summit of the Americas in Mar del Plata. In addition, Panama hosted the first ministerial meeting of the Pathways to Prosperity initiative in December 2008.

¶18. (U) The United States and Panama signed a Trade Promotion Agreement (TPA) on June 28, 2007, which incorporated the provisions from the May 2007 New Trade Policy. The Panamanian National Assembly ratified the TPA on July 11, 2007 by a vote of 58 to 4. The TPA is awaiting U.S. Congressional action. The TPA is a comprehensive free trade agreement. Once implemented, the agreement significantly liberalizes trade in goods and services, including financial services. The agreement also includes important disciplines in such key areas as: customs and trade facilitation, sanitary and phytosanitary measures, technical barriers to trade, government procurement, investment,

telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection. Under the TPA, Panama would provide broader and deeper commitments to maintain a liberal market for services sector, extending well beyond its commitments under the WTO General Agreement on Trade in Services. Moreover, in connection with the TPA, Panama agreed to become a full participant in the WTO Information Technology Agreement.

¶19. (U) Panama has actively pursued bilateral free trade agreements (FTAs) in recent years, having entered into effect FTAs with El Salvador (2003), Taiwan (2004), Singapore (2006), Chile (2008), and Costa Rica, Guatemala, and Honduras (2009). It signed FTAs with Nicaragua in 2003 and with Canada in 2008, but neither are in force. Panama is in exploratory FTA discussions with Mexico, the Mercosur countries, the Andean Community, the European Union, and CARICOM. Panama has partial scope agreements with Mexico (1986), Colombia (1995), and Cuba (2009).

Protection of Intellectual Property

¶10. (U) Panama protects intellectual property rights standards above the minimum provided under the WTO TRIPS Agreement. Panama is not included on any Special 301 lists that identify countries with particularly problematic IPR laws or enforcement practices. Intellectual property policy and practice in Panama is the responsibility of an Inter-institutional Committee for Intellectual Property (CIPI), which includes representatives from five government agencies - Colon Free Zone, Intellectual Property Registry, Ministry of Education (for copyrights), Customs, and the attorney general - under the leadership of the Ministry of Commerce and Industry. It coordinates enforcement actions and develops strategies to improve compliance with the law. The creation in 2002 of a specialized prosecutor for intellectual property-related cases has strengthened the protection and enforcement of IPR in Panama.

Provision of Internationally Recognized Worker Rights

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¶11. (U) Panama protects internationally recognized worker rights. Panama has ratified all eight of the ILO core labor conventions. These eight are Conventions 87 and 98 on freedom of association and collective bargaining, Conventions 29 and 105 on the elimination of forced and compulsory labor, Conventions 138 and 182 on the abolition of child labor, and Conventions 100 and 111 on the elimination of discrimination in respect of employment and occupation.

¶12. (U) Among the major provisions of Panama's labor code are ones addressing freedom of association, the right to organize and bargain collectively, minimum wage, health and safety, hours of work requirements, the minimum age to work legally, and prohibitions against certain forms of child labor. Panamanian law permits the establishment of unions in the private sector and allows organization and collective bargaining by most public-sector and all private-sector employees. The law sets the minimum size of private sector unions at 40 workers and permits one union per establishment. Umbrella unions based on skill groups may also operate in the same establishment. The law provides for a conciliation section within the Labor Ministry to resolve private labor complaints and a procedure for mediation. The law governing the Panama Canal Authority classifies the Canal as an essential international service, and prohibits the right to strike but does allow unions to organize and to bargain collectively. The Panamanian labor code prohibits forced or compulsory labor by adults or children, including prohibiting forced labor by prisoners, and provides seafarers with the right to terminate their employment by giving reasonable notice. The Labor Ministry is responsible for setting and enforcing health and safety standards. Inspectors from the Labor and the occupational health section of the Social Security Administration conduct periodic inspections of work sites.

¶13. (U) Some Panamanian labor leaders maintain that Panama's industry does not fully observe laws on workers' rights and working conditions in Panama, while parts of Panama's business community view the labor code as extremely rigid, particularly with respect to the dismissal of employees, and believe the labor code is a deterrent to operating in Panama. The World Bank's October 2009 Doing Business report ranked Panama 177 out of 183 countries for Employing Workers, which rates the difficulty of hiring and firing employees. The ILO's Committee of Experts on the Application of Conventions and Recommendations has noted a number of discrepancies between Panamanian labor law and ILO conventions which the country has ratified, particularly with regard to freedom of association and collective bargaining. The specific concerns are the lack of obligation on employers in export processing zones (EPZs) to comply with requests from a qualified employee representative to bargain collectively; thirty-five day cooling off periods before the commencement of a called strike in EPZs and the nation's call centers; and, the ability of employers to bargain directly with unorganized groups of workers. The Government of Panama has noted difficulties in reaching consensus with worker and employer organizations about how to close some of these discrepancies. Many consider safety measures in the construction sector to be lax, resulting in approximately 25 deaths in 2007, 12 in 2008, and 13 deaths through August 2009.

¶14. (U) The GOP made significant progress in 2009 in addressing perceived shortcomings identified by the ILO. Executive Decree 17, also enacted May 20, clarified the criteria for legitimate subcontracting, required labor inspections to prevent contracting arrangements that undermined worker rights, ensured that subcontractors and employers in breach of the requirements were subject to sanctions and clarified the process for workers to file complaints and secure remedies. Executive Decree 18, enacted on May 20, prohibited employers from entering into collective negotiations with non-unionized workers when a union existed, and prohibited employers from using a pre-existing agreement with non-unionized workers as grounds to refuse to negotiate with

unionized workers. Executive Decree 19, enacted May 20, required employers to provide objective proof of the grounds for using the exception in the Labor Code that allows successive temporary contracts. Executive Decree 24, enacted June 5, established an enforcement plan to protect the rights of temporary workers, and included targeted inspections, a periodic and random review of temporary contracts, workers' rights education, and the outline of a process to receive and respond to workers' complaints. Executive Decrees 25 and 26, enacted June 5, 2009, increased transportation workers' ability to strike by limiting the scope of strike restrictions on essential transportation services to those involving public passenger services.

Commitments to Eliminate the Worst Forms of Child Labor

¶15. (U) Panama has implemented commitments to eliminate the worst forms of child labor. On October 31, 2000, Panama ratified ILO Convention No. 182. Panama established by law the list of the worst forms of child labor on June 19, 2006. The law lists 17 classes of work considered hazardous by their nature and 12 considered hazardous by their conditions. Panama is an ILO-IPEC participating country.

¶16. (U) In June 2006, Panama adopted its National Plan Against Child Labor (2007-2011). The Plan was developed by the National Commission for the Elimination of Child Labor and the Protection of the Adolescent Worker. The Plan's components are: raising awareness of child labor issues, harmonizing national legislation with international conventions, enforcing child labor laws, improving national capacity to inspect and monitor child labor violations, improving the conditions of parents of working children, promoting the education and health of working children, promoting recreational activities for children, and creating and maintaining a database of credible information. The GOP provides \$1.22 million for the project. In 2008, 2,500 children participated in the program and received scholarships from the Institute for Human Resources, Capacity Building, and Vocational Training.

¶17. (U) Panamanian law set the minimum working age at 14 years, but sets many restrictions on the amount of time and type of work children can perform until the age of 18. Notwithstanding these laws, there are media reports of child labor in the agricultural sector, particularly among indigenous children in rural areas, and children working in the informal sector can be observed in the major cities (principally selling goods and menial services). Additionally, there is public concern over the employment of children, particularly indigenous children, in rural coffee and sugar plantations.

¶18. (U) The Ministry of Labor, through its Child Labor Unit, is responsible for enforcing child labor laws. The Ministry of Government and Justice is responsible for developing policies to combat trafficking in persons. The Ministry of Social Development (MIDES) provides shelter and related services to trafficking victims and vulnerable children, as well as children engaged in exploitative labor and the sex industry. MIDES also provides services to families in extreme poverty, which includes a monthly stipend to female heads of households who commit to keep their school-aged children in school and participate in school activities.

¶19. (U) The GOP participated in three specific programs funded by the ILO and US Department of Labor to combat child labor in rural areas. These were the Direct Action Program for the Eradication of Child Labor in Commercial Agriculture in the Ngobe Bugle with a budget of almost \$130,000, the Direct Action Program for the

Eradication of Dangerous Child and Adolescent Labor in the Santiago District, Veraguas Province with a budget of almost \$125,000, and the Direct Action Program for the Eradication of Dangerous Child and Adolescent Labor in Chorrera District, Panama Province, for almost \$115,000. Additionally, Panama completed in August its participation in a two-phase, seven year ILO program, which was received \$2.6 million from the US DOL. The program resulted in 1,857 children being removed from the work force and prevented another 1,543 from entering the work force, in addition to strengthening GOP capacity to eradicate child labor. Panama completed the second phase of an \$8.6 million regional ILO project to prevent and eliminate the commercial sexual exploitation of minors in Central America, including Panama, and the Dominican Republic.

Counter-Narcotics Cooperation

¶20. (U) The Government of Panama was certified in March 2009 as having cooperated vigorously with the United States on counter-narcotics efforts. Additionally, Panama has a comprehensive legal framework to detect, prevent, and combat money laundering and terrorist financing, and provides excellent cooperation with U.S. law enforcement agencies in combating drug trafficking, money laundering, and financial crimes. However, by virtue of its geographic position and well-developed maritime and transportation infrastructure, Panama is a major logistics control and trans-shipment country for illegal drugs to the United States and Europe, and is used for money laundering purposes.

Implementation of the Inter-American Convention Against Corruption (IACAC)

¶21. (U) Panama is a signatory to the IACAC, having ratified the convention on July 20, 1998, and deposited it with the Organization of American States on October 8, 1998. On June 4, 2001, Panama signed the Declaration on the Mechanism for Follow-up of the Implementation of the Inter-American Convention Against Corruption (MESICIC). The Government of Panama has established a National Council for Transparency against Corruption (CNTCC), which includes the Ministry of the President, Ministry of Economics and Finance, Attorney General, and the Comptroller General.

¶22. (U) The Committee of Experts of MESICIC issued a Final Second Report on Panama's implementation of the IACAC based on information collected through May 25, 2007. The report acknowledged progress by Panama in certain areas, and recommended the GOP strengthen the systems for addressing conflicts of interest, ensuring there is an oversight body with competence to establish through training then enforce ethics standards, and increasing public participation and monitoring of public administration. On March 16-17, 2009, the CNTCC and the OAS held a workshop on the issues identified, and CNTCC issued a report in September 2009 outlining what steps it has taken to respond to the issues raised by the MESICIC reports. They steps taken include adding to the CNTCC on July 21, 2009 the responsibility to examine the ethics training of public officials and announcing on November 19, 2008 that they will create an office in the Ministry of Social Development to increase public participation in public administrative matters.

Transparency in Government Procurement

¶23. (U) Panamanian law 22 of 2006 regulates government procurement and other related issues. Law 22 was intended to streamline and modernize Panama's contracting system. It establishes, among other

things, an Internet-based procurement system (www.panamacornpra.gob.pa) and requires publication of all proposed government purchases. The PanamaCompra program requires publication of all government purchases on the Internet; evaluation of proposals and monitoring of the procurement process; consultation of public bids, including technical specifications and tender documents; classification of purchases by different government institutions and gathering and analysis of data. The law also created an administrative court to handle all public contracting disputes. The rulings of this administrative court are subject to review by the Panamanian Supreme Court. The Panamanian government has generally handled bids in a transparent manner, although occasionally U.S. companies have complained that certain procedures have not been followed. The GOP procured approximately \$100 million through sole-source contracts between July 1 and September 25 under the 'urgency' exception; some of the contracts were for expansion of the coastal highway (\$55 million), purchase of a Presidential airplane (\$17 million), and procurement of 20 ambulances (\$1.7 million).

¶24. (U) While Panama committed to become a party to the WTO Government Procurement Agreement at the time it joined the WTO, it remains an observer and not a signatory. Its efforts to accede to the GPA have stalled. Under the TPA, Panama would guarantee a fair and transparent process for procurement covered by the TPA. The TPA provides that U.S. suppliers will be permitted to bid on procurement by a wide range of Panamanian government entities, including the Panama Canal Authority, over a certain threshold amounts on the same basis as Panamanian suppliers. The TPA would strengthen rule of law and fight corruption by criminalizing bribery in government procurements and establishing at least one impartial administrative or judicial authority to receive and review supplier challenges. Disputes relating to Panama Canal Authority procurement will continue

to be addressed through the authority's existing procedures.

Extradition

¶25. (U) The United States and Panama are signatories to an extradition treaty, dated May 25, 1904 (entered into force May 8, 1905), which provides for the extradition from Panama to the U.S. of U.S. citizens convicted of crimes.

Nationalization/Expropriation

¶26. (U) The U.S. Embassy in Panama has not reported any nationalization or expropriation of any property held in the name of U.S. citizens since the publication of the previous CBERA Report.

Arbitral Awards

¶27. (U) The U.S. Embassy in Panama has not reported any arbitral awards favoring U.S. citizens which Panama has actively failed to recognize since the publication of the previous CBERA Report.

Market Access

¶28. (U) Panama does not provide preferential treatment to any developed country that has had, or is likely to have, an adverse effect on U.S. commerce.

STEPHENSON